

SUPREME COURT OF THE STATE OF ARIZONA

IN THE MATTER OF: ORDER TO)	
PERMIT EXPERIMENTAL USE OF)	ADMINISTRATIVE ORDER
ELECTRONIC RECORDING TO MAKE)	NO. 2006- _____
THE OFFICIAL RECORD OF TRIAL)	
COURT PROCEEDINGS IN MARICOPA)	
COUNTY)	
_____)	

1. PURPOSE AND SCOPE OF ORDER.

The court must be a good steward of public resources and provide the public affordable access to the judicial process. Technology is available to allow electronic capture of court proceedings. State law and rules of the court now allow audio and video recording of some court proceedings and, under certain circumstances, the use of the recording as the "official record" on appeal. For example, see A.R.S. §38-424; Rule 11(e), Superior Court Rules of Appellate Procedure - Civil; Rule 2(a), Superior Court Rules of Appellate Procedure - Criminal. Proponents of courtroom technology contend that electronic recording is a reliable and inexpensive manner to create the court record and that by expanding its use, the court and public will benefit in a variety of ways. This Administration Order is entered to allow the Superior Court in Maricopa County to engage in a test project to determine whether recording of judicial proceedings in criminal cases by means other than stenographic recording will benefit the court, the users of the court and the public without sacrificing the integrity of the court record.

One of the claimed benefits of utilizing electronic recording methods is that it will allow court participants to obtain both official and unofficial copies of the court record in a speedier and less expensive manner without sacrificing accuracy. The cost of obtaining a court reporter's transcript of a court proceeding is, for some litigants, an obstacle to acquiring a record of the court proceeding. There are times when an "unofficial" transcript of a court proceeding would suffice for a participant's purposes. For example, an attorney wishing to prepare for the next day's trial, may wish to review what was said at the argument on the motions in limine that morning or what a trial witness testified to earlier in the day or what a witness testified to at a preliminary hearing or suppression hearing. To do that now, the attorney would have to obtain from a court reporter a typed transcript of the

proceeding and either pay or have charged to the county an additional charge for obtaining it. However, there is an alternative.

"Unofficial" copies of any recorded court proceeding are almost instantaneously available in the video courtrooms in the Superior Court in Maricopa County. The video courtrooms in the Superior Court in Maricopa County currently have the capability of making four simultaneous analog videotape recordings (VHS tapes), two of which tapes can be given to the parties immediately following the conclusion of the recorded proceeding. The downtown video courtrooms have the capability of also making a simultaneous digital audio and video recording of the proceedings and providing anyone wishing one, a copy of the proceeding (both video and audio) on a compact disk, which can be reviewed on a computer, within minutes of the conclusion of the proceeding. This project will evaluate whether users of the court are as satisfied with copies of the recordings as with written transcripts prepared by a court reporter and whether tapes or CDs meet the needs of the court participants in criminal cases.

This project will evaluate whether the "official transcript" made from an electronic recording is as accurate as one prepared by a court reporter from stenographic notes made during the proceeding in criminal cases. This project will evaluate whether the time needed and cost to produce the "official transcript" of a court proceeding is less than current methods of obtaining an official transcript from a court reporter in criminal cases. Should these benefits actually result, the reduced cost of both the "official" and "unofficial" record of court proceedings may enhance public access to the judicial proceedings.

This Administrative Order allows the record on appeal in matters of short duration in criminal cases to consist only of the electronic record. This provision will be evaluated to determine its impact on the appellate court and whether the cost and time for appeal are significantly reduced.

The documented incidence of repetitive motion injuries was so high among court reporters working in the Superior Court in Maricopa County that the Superior Court is now operating under an OSHA remedial order. Many proceedings, such as motion arguments, for which no transcript is ever ordered are currently covered by court reporters. This project will evaluate whether,

by utilizing court reporters in only limited circumstances, the number of reported repetitive motion injuries is reduced.

The provisions of this order shall only apply to designated court proceedings presided over by judicial officers in the designated video courtrooms of the Superior Court of Arizona in Maricopa County.

2. LENGTH OF THIS ORDER.

This Administrative Order shall expire twelve months from its effective date.

3. EVALUATION PROGRAM.

The Presiding Judge of the Superior Court for Maricopa County shall establish a committee to evaluate the effectiveness of utilizing electronic recording of criminal case proceedings in achieving the stated purposes underlying this Order. The committee shall produce a written report within three months of the expiration of this Order. The Chief Justice of the Arizona Supreme Court shall appoint one appellate court judge to the evaluation committee. The Presiding Judge of the Superior Court for Maricopa County shall appoint the other members of the committee and decide the number of additional persons to serve on the committee. The Presiding Judge shall assure representation on the committee by the public, the bar, court administration, the trial court bench and court reporters.

4. RECORD OF TRIAL COURT PROCEEDINGS.

The official record of the designated court proceedings in the designated video courtrooms shall consist of two simultaneously recorded videotape recordings or one videotape recording and one digital recording. The court will retain the copies of the videotape and digital recordings for a period of six months and then transfer them to the clerk of the court for storage.

5. DESIGNATED COURT PROCEEDINGS.

The provisions of this order shall apply to criminal case proceedings in the Superior Court in Maricopa County with the exception of trials in capital cases.

In the discretion of the judicial officer presiding over

the case, the judicial officer may request that a court reporter be present at any proceeding. Any party objecting to the use of only the electronic recording of the proceeding may request that the Presiding Judge of the Criminal Department of the Superior Court for Maricopa County grant an exception to this Administrative Order.

6. TRANSCRIPT ON APPEAL.

If the record designated for the appeal consists of videotape or digital recording totaling one hour or less, the official record on appeal shall be the videotape or digital recording. Subject to payment or waiver of appropriate fees, upon filing a notice of appeal, the parties will be provided either a copy of the videotape of the proceeding or a copy of the proceeding on compact disk.

Subject to payment or waiver of appropriate fees, upon filing of a notice of appeal where the portion of the record designated for purposes of appeal consists of videotape or digital recording totaling more than one hour, the videotape shall be transcribed by a transcription service approved by the court into typed form. Upon request of the appellate court, the official videotape or digital recording will be provided to the appellate court. All fees for the preparation of the transcript will be paid to the transcription service.

7. UNOFFICIAL COPIES OF THE RECORD.

Upon request of any party, the court shall record the proceeding on a videotape supplied by the party or, at the end of the proceeding, create ("burn") a compact disk of the proceeding for the party. The party is required, at the party's own expense, to provide the court with a new videotape or new compact disk meeting the court's specifications. The court may charge a reasonable fee for copying and burning of CDs and tapes.

DATED this _____ day of _____, 2006.

Hon. Ruth V. McGregor
Chief Justice